

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested.

Claims 1, 2, 5-7, 9-12, 69, and 70 are currently pending, wherein claim 1 is independent. Claims 3, 4, 8, and 13-68 have been canceled, without prejudice or disclaimer. Claim 1 has been amended.

Applicants would like to thank Examiner Melanie Yu for the telephonic interview conducted on June 14, 2007. In compliance with M.P.E.P. § 713.04, the substance of that interview is incorporated in the foregoing amendment to claim 1 and in the following remarks.

In the second section of the Office Action, claims 1, 2, 5-7, and 9-12 are rejected under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. These rejections are respectfully traversed.

With regard to independent claim 1, the Patent Office alleges that it is apparently unclear “whether the immunosensor system requires an immobilized antibody, a target analyte and a labeled antibody in the form of a sandwich, or whether the immunosensor merely requires a sensor that is capable of generating a signal based on a sandwich.” [Office Action, page 2]

According to M.P.E.P. § 2173.02,

[t]he examiner’s focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, *not* whether more suitable language or modes of expression are available. . . . Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. Examiners are encouraged to suggest claim language to applicants to improve the clarity or

precision of the language used, **but should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement.** [M.P.E.P. § 2173.02 (emphasis added)]

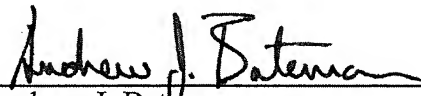
Given the “latitude in the manner of expression and the aptness of terms” afforded to the Applicants, it is respectfully submitted that claim 1 is clear and precise and fully complies with the requirements of 35 U.S.C. § 112, second paragraph.

However, merely to facilitate prosecution in the present application and to reduce issues for purposes of appeal, Applicants hereby amend claim 1 to clarify that the first immunosensor is capable of generating a signal based on a sandwich. This grammatical amendment is made merely to clarify the language of independent claim 1, and is not made for any purposes related to patentability. This amendment does not narrow or otherwise limit the scope of claim 1. The amendment is fully supported by the present application. No new matter has been introduced by way of this amendment. Accordingly, reconsideration and withdrawal of these grounds of rejection are respectfully requested.

Entry of the present Amendment is proper under 37 C.F.R. § 1.116, because the Amendment places the application in condition for appeal for the reasons discussed herein, and does not raise any new issue requiring further search and/or consideration. Entry of this Amendment is thus respectfully requested.

Should the Examiner have any questions regarding this amendment or the application in general, the Examiner is urged to contact the Applicants' attorney, Andrew J. Bateman, by telephone at (202) 625-3547. All correspondence should continue to be directed to the address given below.

Respectfully submitted,

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